

**REMARKS**

Claims 18, 19, 65, 67, 76, 82, 84, and 92-120 are currently pending. Claim 18 is currently amended. Claims 92-120 are newly added in this amendment.

Claim amendments were made to better define one embodiment of the invention, notwithstanding Applicants' belief that the unamended claims would have been allowable, without acquiescing to any of the Examiner's arguments, and without waiving the right to prosecute the unamended (or similar) claims in another application, for the purpose of furthering Applicants' business goals and expediting the patent application process in a manner consistent with the PTO's Patent Business Goals. None of the amendments to the claims is related to the statutory requirements of patentability unless expressly stated so herein.

**Rejection under 35 U.S.C. §112, second paragraph**

Claims 18, 19 and 82 have been rejected under 35 U.S.C. § 112, first paragraph, as allegedly being indefinite for failing to particularly point and claim the subject matter. The Office has expressed concerns regarding the phrase "substituted phenyl". While Applicants believe that the term is definite, the claims have been amended to recite specific substituents for phenyl. Applicants request that the rejection be withdrawn.

**Rejection under 35 U.S.C. §112, first paragraph**

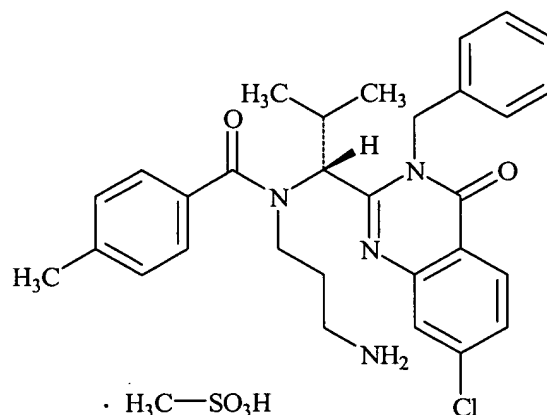
The claims have been rejected under 35 U.S.C. § 112, first paragraph, as allegedly failing to comply with the enablement requirement. This rejection is respectfully traversed.

Applicants have described in detail in the specification how to make compounds in accordance with the invention, how to formulate such compounds into a variety of

forms suitable for administration to mammalian subjects, and appropriate dosage schedules for such administration (see, for example, page 24, line 29 to page 25, line 8 and page 48, lines 9-14 of the instant specification).

Applicants have further provided guidance for selecting potent inhibitory agents using established *in vitro* assays (see, for example, the specification at page 44, line 5 to page 48, line 15) and have provided guidance for the specific cellular proliferative disorders, such as tumors, for which evidence exists that agents having the inhibitory activities of the compounds of the invention would be useful. In point of fact, the specification points out that the compounds of the invention inhibit growth in a variety of cell lines, including those which convey resistance to other chemotherapeutic drugs (see, for example, the specification at page 47, lines 18-23).

Applicants have provided herewith documents summarizing the results of the certain of the clinical trials of *ispinesib* (also known as SB-715992 or CK0238273) to the Office. See, *also*, Document 59, Information Disclosure Statement, filed November 14, 2005. That compound has the structure:



The Specification details *in vitro* and *in vivo* testing protocols for cancer. Those testing protocols are described in the scientific literature and are accepted as predictive of activity. Moreover, the utility for the claimed methods for the treatment of cancer has been demonstrated. Finally, the state of the art of cancer treatment has advanced markedly in the last thirty years. Even twenty years ago, the courts recognized that ameliorating the symptoms or altering the course of the disease, even to the extent of curing it, was no longer considered to be "incredible." *Ex parte Busse*,

1 U.S.P.Q.2d 1908 (BPAI, 1986).

In view of the foregoing remarks, Applicants respectfully submit that the instant specification complies with the enablement requirements of 35 U.S.C. §112, first paragraph.

Accordingly, withdrawal of this rejection is respectfully requested.

### **Conclusion**

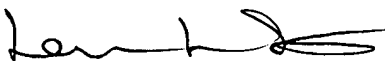
Applicants respectfully maintain that all pending claims are in condition for allowance. Therefore, Applicants respectfully request a Notice of Allowance for this application from the Examiner. Should any unresolved issues remain, the Examiner is encouraged to contact the undersigned at the telephone number provided below.

Please grant any extensions of time required to enter this reply, and charge any additional required fees to our Deposit Account No. 06-0916.

Respectfully submitted,

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